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6 Attorneys for Defendants K-M Industries
 Holding Co. Inc.; K-M Industries Holding Co.
 7 Inc. ESOP Plan Committee; and CIG ESOP
 Plan Committee

8 **UNITED STATES DISTRICT COURT**

9 **NORTHERN DISTRICT OF CALIFORNIA**

10 **SAN FRANCISCO DIVISION**

11 THOMAS FERNANDEZ and LORA
 SMITH, individually and on behalf of a
 12 class of all others similarly situated,

13 Plaintiffs,

14 v.

15 K-M INDUSTRIES HOLDING CO., INC.;
 K-M INDUSTRIES HOLDING CO. INC.
 16 ESOP PLAN COMMITTEE; WILLIAM E.
 AND DESIREE B. MOORE REVOCABLE
 TRUST; ADMINISTRATOR OF THE
 17 ESTATE OF WILLIAM E. MOORE,
 DECEASED; CIG ESOP PLAN
 18 COMMITTEE; NORTH STAR TRUST
 COMPANY; DESIREE B. MOORE
 19 REVOCABLE TRUST; WILLIAM E.
 MOORE MARITAL TRUST; WILLIAM
 20 E. MOORE GENERATION-SKIPPING
 TRUST; and DESIREE B. MOORE, BOTH
 IN HER INDIVIDUAL CAPACITY AND
 AS TRUSTEE OF THE WILLIAM E. AND
 21 DESIREE B. MOORE REVOCABLE
 TRUST'S SUCCESSOR TRUSTS NAMED
 ABOVE,
 22
 23

24 Defendants.

) Case No. C06-07339 MJJ
)
) **CASE MANAGEMENT**
) **STATEMENT OF DEFENDANTS**
) **K-M INDUSTRIES HOLDING**
) **CO., INC., K-M INDUSTRIES**
) **HOLDING CO. INC. ESOP PLAN**
) **COMMITTEE AND CIG ESOP**
) **PLAN COMMITTEE;**
) **REQUEST FOR EXTENSION OF**
) **DISCOVERY DEADLINE**

1 **I. INTRODUCTION**

2 Pursuant to the Court's Order Modifying Pretrial Order, filed August 30, 2007, defendants
3 K-M Industries Holding Co., Inc., K-M Industries Holding Co. Inc. ESOP Plan Committee and CIG
4 ESOP Plan Committee ("Corporate Defendants") file this Case Management Statement seeking a
5 change to the case schedule. Specifically, the Corporate Defendants request that the deadline for
6 Corporate Defendants to complete their production of ESI be extended from November 7, 2007 to
7 December 7, 2007.

8 **II. CURRENT STATE OF PRODUCTION BY THE CORPORATE DEFENDANTS**

9 The Corporate Defendants have completed producing all hard copy documents that they have
10 agreed to provide to the Plaintiffs. What remains to be accomplished is completion of the review and
11 production of the ESI responsive to plaintiffs' document requests.

12 Even with discovery being limited to an agreed-upon list of document "custodians," the
13 forensic consulting firm engaged by the Corporate Defendants collected over 1,063,000 electronic
14 files from the computer systems of both KMH and CIG (approximately 10 million pages). After
15 processing the data and applying the search terms agreed upon by the parties, approximately
16 380,000 potentially responsive ESI documents were identified that need to be reviewed for
17 relevance, confidentiality and privilege issues.

18 To date, the Corporate Defendants have produced approximately 17,000 electronic files from
19 the computer systems of KMH, CIG and the Lanier Law Firm in Texas. We intend to continue to
20 make rolling productions of documents as they are processed.

21 The document review process being used by the Corporate Defendants has been divided into
22 three review "levels." The First Review involves winnowing out obviously non-responsive
23 documents and flagging potentially privileged and confidential documents. The First Review team
24 consists of 12 full-time "J.D.'s" with experience reviewing ESI and a paralegal project manager.
25 The Second Review performs quality control checks on the First Review and analyzes documents
26 that have been designated as potentially privileged. These reviewers consist of eight experienced

1 "staff attorneys," plus two attorneys regularly employed by Lovitt & Hannan, all working full time.

2 Three Lovitt & Hannan attorneys will be working full time performing the Final Review
 3 designed to insure that claims of privilege are correctly made, thus reducing the likelihood that non-
 4 privileged documents will be withheld, or that privileged documents will be inadvertently produced.

5 Given our progress so far, our best estimate of when we can expect to finish the First and
 6 Second Level reviews is November 12. The Final Review of these documents is on-going,
 7 overlapping the Second Review, and will result in successive rolling productions of ESI. It is
 anticipated that there may be as many as 7,500 files that will have to be reviewed for privilege issues
 8 in the Final Review. It is hard for us to predict how long this Final Review will take. Our best
 9 estimate is that the Final review of the last group of documents can be completed by December 7.

10 **III. REQUEST FOR EXTENSION OF DISCOVERY DEADLINE**

11 The number of files that were responsive to the search terms applied to the collected data
 12 greatly exceeded what was expected, and this has caused the project to become much larger than
 13 anticipated. The Corporate Defendants believe that the three-level review being performed is the
 14 most efficient process that can be effectively managed given the scope of the review being made,
 15 and therefore request that the deadline for the Corporate Defendants to complete the production of
 ESI be extended to December 7, 2007.

17 Dated: October 29, 2007

Respectfully submitted,

18 LOVITT & HANNAN, INC.

20 By: _____ /s/

21 Henry I. Bornstein
 22 Attorneys for Defendants K-M Industries Holding
 Co., Inc.; K-M Industries Holding Co., Inc. ESOP
 Plan Committee; and CIG ESOP Plan Committee